IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

(223) **COMPANY PETITION NO. 197 OF 1999**

Sadhana Nitro Chem Ltd. ... Petitioner

Vs.

Enarai Finance Ltd. ... Respondents

Mr. F.S. Colabawala i/by Mulla & Mulla for Petitioner.

None for Respondents.

CORAM : A.M. KHANWILKAR,J.
DATED : JULY 15, 2005

P.C.

. Heard counsel for the Petitioner, None appears for the respondents though served. No reply has been filed on behalf of the respondent.

. The case of the Petitioners is that the Petitioners had placed with the company two inter corporate deposits for the period of 90 days with effect from October, 1997 at the agreed interest due thereon at the rate of 21% p.a. The company in turn gave post dated cheques to the Petitioner which however, were dishonoured. Inspite of repeated reminders, the respondent company failed to discharge its obligation to pay the outstanding amount which was an acknowledged debt. Petitioner eventually issued statutory notice to the respondent company which remained un replied. In

this background, the Petitioner filed this petition under Section 433 and 434 of the Companies Act on 15.1.1999. The Petition came up for admission on 5.5.1999. Inspite of notice none appeared for the respondent or any reply was filed. This court therefore, proceeded to admit the petition. The admission of the Petition has been subsequently published in newspapers as well as official gazette. As mentioned earlier, none appears for the respondent company though served nor any reply has been filed. In that sense, the averments made in the petition have remained uncontroverted. Besides, legal presumption against respondent company that it is unable to pay its debt has also remained unrebutted. In this background, this court has no option but to allow this petition in terms of Prayer Clauses (a) and (b). Accordingly Petition is made absolute in terms of Prayer Clauses (a) and (b).

(A.M. KHANWILKAR,J.)